

REUNITING FAMILIES: A PROPOSAL TO ADDRESS THE FAMILY
SEPARATION POLICY AT THE U.S. – MEXICO BORDER

by
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Abstract

In the last year, the separation of migrant families, as a result of the Department of Justice's (DOJ) zero-tolerance policy at the U.S. – Mexico border, has garnered critical national attention. Because minor children cannot be held in criminal custody with an adult, alien adults and accompanying minor children attempting to enter the U.S. illegally were separated when adults were referred for criminal prosecution. Under its first review, the agencies responsible for the custody of separated children, including the Department of Homeland Security (DHS) and the Department of Health and Human Services (HHS), concluded that approximately 2,800 children in their care had been affected by the zero-tolerance policy. However, upon further review, the HHS Office of the Inspector General (OIG) concluded that there is an unknown number of children who were separated from their parents at the U.S. – Mexico border as a result of the DOJ policy. The goal of this policy proposal is to identify every child separated and begin reunification efforts through inter-agency collaboration. This will be accomplished through an amendment to the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVRPA), which addresses reduced operations costs to the federal government and allows for effective inter-agency collaboration. Despite political and legislative barriers, it is essential that lawmakers recognize the importance of reuniting families their government is responsible for separating.

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TO: Secretary Alex Azar, Department of Health and Human Services
FROM: Taylor Culliton
SUBJECT: The Separation of Migrant Children at the U.S. - Mexico Border
DATE: February 5, 2019

I. Action Forcing Event

In the spring of 2018, the Department of Justice (DOJ) and the Department of Homeland Security (DHS) formally announced their “zero-tolerance policy” for certain immigration offenses. As a result, DHS separated a large number of alien families, placing adults and their children in separate detention facilities. On February 1, 2019, the Office of Refugee Resettlement (ORR) with the Department of Health and Human Services (HHS) announced it is not “within the realm of possible” for the majority of these separated families to be reunited.¹

II. Statement of the Problem

The Department of Justice (DOJ) and Department of Homeland Security’s (DHS) zero-tolerance policy issued in April 2018 for certain immigration offenses resulted in the separation of approximately 2,737 identified children.² However, the Department of Health and Human Services (HHS), Office of Refugee Resettlement (ORR) acknowledges that this number does not accurately reflect the total number of children separated from their parents at the U.S. Mexico border.³ According to a declaration in the

¹MS. et al., vs. U.S. Immigration and Customs Enforcement et al., “Declaration of Jallyn Sualog” Case 3:18-cv-00428-DMS-MDD, 347-2, filed February 1, 2019, <https://www.aclu.org/legal-document/govt-response-declaration-2>.

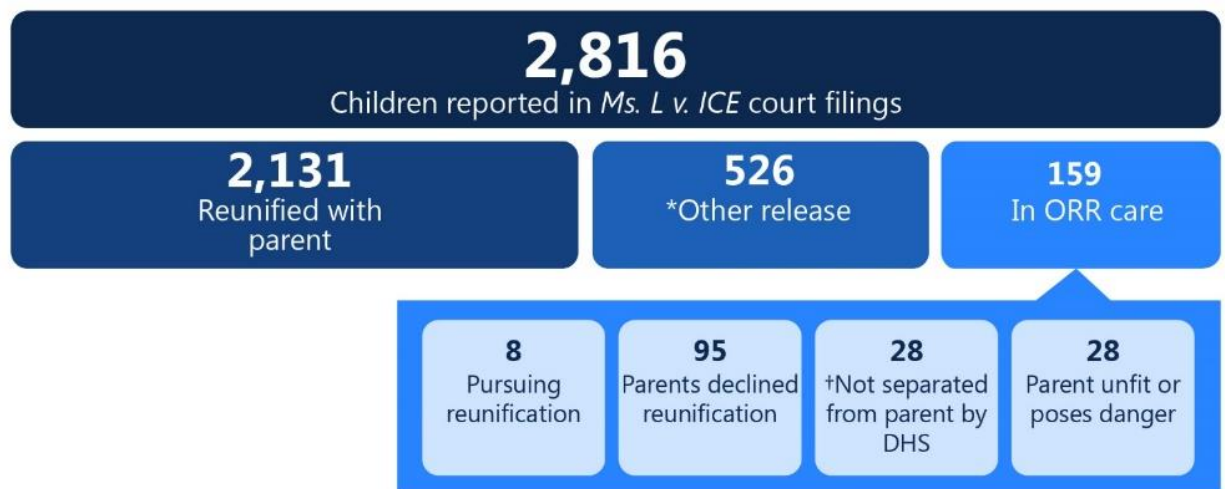
² U.S. Department of Health and Human Services, Office of the Inspector General, “Separated Children Placed in Office of Refugee Resettlement Care,” OEI-BL-18-00511, January 2019.

³ Jallyn Sualog, “Declaration,” p. 4.

Ms. L vs. ICE case filed by the American Civil Liberties Union (ACLU) against DHS and HHS, the Director of HHS ORR reports that there is an unknown number of unidentified children who were separated from their parents from July 2017 to July 2018. The ORR also states the inability of DHS and HHS to track every child separated from their parent(s) resulted from a lack of resources and integrated data tracking systems across the DHS and HHS.

In June 2018, Federal Judge Dana Sabraw ordered DHS and HHS to cease certain family separations and reunite eligible families. According to the HHS Office of the Inspector General (OIG), the majority of the 2,737 identified separated children have been returned to the care of the parent as of January 2019. Figure 1 demonstrates the current status of the identified 2,737 separated children as of January 2019.

Figure 1. Status of Children Included in Ms. L v. ICE Court Filings as of December 2018



◆ Includes 2,737 children separated from a parent and 79 children whom HHS has determined were not separated from a parent. As of December 2018, HHS continues to report to the Court on the status of all 2,816 children.

*Includes children released to sponsors or remanded to DHS custody after turning 18.

†Includes children found to have entered the U.S. unaccompanied, separated from a nonparent relative, or otherwise determined not to have been separated from a parent.

Source: HHS OIG Analysis of *Ms. L v. ICE* Court Filings, 2018.⁴

⁴ HHS OIG, “Separated Children Placed in Office of Refugee Resettlement Care,” January 2019.

Despite the success of the HHS ORR to reunite 2,131 children, both the HHS ORR and OIG conclude that, “the total number and current status of all children separated from their parents or guardians by DHS and referred to ORR’s care is unknown.”⁵ According to the ORR, the total number of unaccompanied minors (UACs) in their care is approximately 47,083 as of January 2019.⁶ Due to the lack of integrated data systems to track families separated across DHS and HHS, the ability of ORR staff to identify every separated child is extremely limited. The Director of the ORR stated HHS would have to deploy even more resources to identify possible separated children within the total number of UACs in ORR custody.

For example, throughout the zero-tolerance policy time period, DHS did not consistently report potential separations to ORR using a specified data field that automated the tracking of potential separations by ORR.⁷ Instead, DHS reported, “anecdotal information regarding potential separations to ORR on an ad hoc basis by entering it into any one of the potentially relevant fields in the UAC’s case management record on the ORR online portal.”⁸ As a result, ORR conducted informal, manual tracking of potential separations for program operations only and not for legal or public reporting purposes. Therefore, an integrated and automated data tracking system was unavailable to ORR at the time of public outcry and the ACLU’s legal action. To accurately track, identify, and reunite every separated child, the ORR would have to

⁵HHS OIG, “Separated Children Placed in Office of Refugee Resettlement Care,” January 2019, p. 13.

⁶ Jallyn Sualog, “Declaration,” p. 4.

⁷ Jallyn Sualog, “Declaration,” p. 5.

⁸ Jallyn Sualog, “Declaration,” p. 6.

conduct a forensic data analysis of all 47,083 UACs in ORR care and custody during the period of June 2018 to July 2018.

According to the ORR, this data analysis would result in an analysis of 4 to 8 hours per UAC case, and therefore 188,332 to 376,664 hours (4 to 8 hours per case multiplied by 47,083 children in ORR care between July 2017 and July 2018) for ORR analysts to review all of the UAC case management records for indicators of separation.⁹ Identifying separated children alone requires more staff and resources that the ORR does not possess and would subsequently “imperil ORR’s ability to perform its core functions without significant increases in appropriations from Congress, and a rapid, dramatic expansion of the ORR data team.”¹⁰ In addition to the lack of resources the ORR faces in its attempts to reunite separated children, the ACLU’s *Ms. L v. ICE* case also identifies the medical and psychological impact on the child and parent.

In their February 2018 complaint, the ACLU cites the American Association of Pediatrics denouncement on the DHS and HHS practice of separating immigrant children with, “the psychological distress, anxiety, and depression associated with separation from a parent would follow the children well after the immediate period of separation—even after the eventual reunification of with a parent or other family.”¹¹ The separation of children at the initial and prolonged stages produces a negative impact on the child’s overall well-being. However, the ORR and OIG presented arguments that challenged this statement due to a child’s attachment to the sponsor or guardian they were released to and could prove disruptive to their current environment and well-being. Therefore, the

⁹ Jallyn Sualog, “Declaration,” p. 7.

¹⁰ Jallyn Sualog, “Declaration,” p. 8.

¹¹ *Ms. L v. ICE et al.*, “Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief,” in *Case 3:18-CV-0428-DMS-MDD*, filed February 26, 2018.

challenge of preserving a child's welfare manifests itself through the various stages of this issue.

III. History/Background

Under the Homeland Security Act of 2002, the care and custody for Unaccompanied Alien Children (UAC) was transferred from the former Immigration and Naturalization Service (INS) to the ORR.¹² However, the apprehension, temporary detention, transfer and repatriation of a UAC, who enters the United States with no lawful immigration status, falls within the responsibility of the Customs and Border Patrol (CBP), the Office of Field Operations (OFO) and the U.S. Immigration and Customs Enforcement (ICE) divisions of the DHS.¹³ Therefore, the DHS and HHS are responsible for any UAC who enters the United States and does not have a lawful immigration status and/or a parent or legal guardian available to provide care and physical custody.

Under the William Wilberforce Trafficking Victims Protection and Reauthorization Act of 2008 (TVPRA), UAC in the custody of any federal department or agency must be transferred to ORR within 72 hours of determining that they are UAC.¹⁴ Once UAC are placed with ORR, federal law also requires the safe and timely placement of UAC in the least restrictive setting. While UAC are in ORR custody, ORR is required to identify suitable "sponsors" who can care for the child while in the U.S. and awaiting

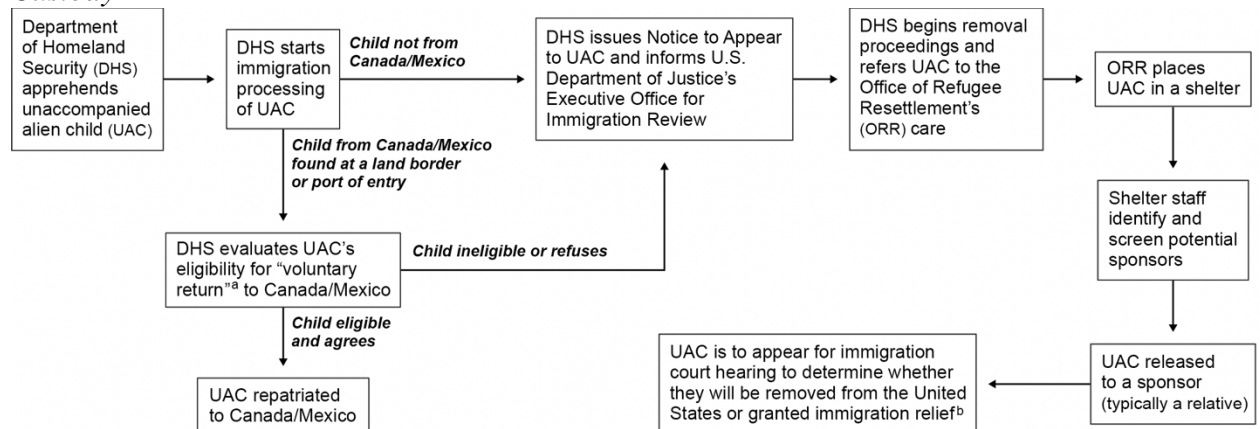
¹² Office of the Administration for Children and Families, Office of Refugee Resettlement, "Fact Sheet on Unaccompanied Alien Children's Services," updated June 15, 2018, https://www.acf.hhs.gov/sites/default/files/orr/orr_fact_sheet_on_unaccompanied_alien_childrens_services_0.pdf.

¹³ GAO, "Unaccompanied Children: Agency Efforts to Reunify Children Separated from Parents at the Border," *GAO-19-163*, published October 2018, pages 1-40.

¹⁴ GAO, "Unaccompanied Children," p. 6.

judicial resolution of their immigration status.¹⁵ Otherwise, children who are accompanied by a parent or guardian and are not classified as a UAC are held with their parents in CBP custody throughout the family’s judicial immigration status proceedings. Figure 2 demonstrates the process of a UAC while in DHS and HHS care and custody. According to the ORR, the majority of children referred to their custody have surrendered to or been apprehended by DHS officers while attempting to enter the United States without a parent or guardian.¹⁶ However, in the last few years, ORR noticed an increase in the number of children referred to their care after being separated from a parent or guardian by DHS while entering the U.S.

Figure 2. Transfer, Care, and Release of Unaccompanied Alien Children in Federal Custody



Sources: GAO analysis of DHS and ORR documents and interviews of officials from these agencies as previously shown in GAO-16-180. | GAO-19-163

Source: GAO, “Unaccompanied Children Report,” p. 8.

Historically, the number of children separated from their parent or guardian under DHS custody is rare and typically the result of the parent’s medical emergency or a determination that the parent was a threat to the child’s safety.¹⁷ In the last few years, the DOJ and DHS have implemented measures to increase enforcement of immigration laws.

¹⁵ HHS OIG, “Separated Children Placed in Office of Refugee Resettlement Care,” p. 3.

¹⁶ HHS OIG, “Separated Children Placed in Office of Refugee Resettlement Care,” p. 3.

¹⁷ HHS OIG, “Separated Children Placed in Office of Refugee Resettlement Care,” p. 3.

The most recent immigration enforcement action is the DOJ's zero-tolerance policy that prioritized the prosecution of certain immigration offenses. However, on April 11, 2017, one year prior to the official announcement of the zero-tolerance policy, the Attorney General also issued the *Memorandum for all Federal Prosecutors. Renewed Commitment to Criminal Immigration Enforcement*, prioritizing the enforcement of criminal prosecution of a number of criminal immigration-related offenses, including misdemeanor improper entry.¹⁸ Because minor children cannot be held in criminal custody with an adult, alien adults and accompanying minor children attempting to enter the U.S. illegally were separated when adults were referred for criminal prosecution.¹⁹ The accompanying minor children are subsequently classified as UAC and transferred to DHS and then HHS custody. Soon after the April 2017 memorandum was released, certain facilities along the Southwest border began implementing the new policy.

According to ORR officials, before and after the April 2017 memorandum, the percentage of children in ORR's care who were separated from their parents and transferred to HHS rose by more than a tenfold increase, from 0.2 percent in November 2016 to 2.6 percent by March 2017, and then to 3.6 percent by August 2017.²⁰ In addition, ORR officials at facilities in Arizona and Texas observed an additional increase in the number of children separated from their parents in late 2017 and early 2018, prior to the introduction of the April 2018 zero-tolerance policy memo.²¹ These facilities include the El Paso and Rio Grande Valley CBP facilities and include ports of entry,

¹⁸ GAO, "Unaccompanied Children", p. 1.

¹⁹ Department of Homeland Security, Office of the Inspector General, "Results of Unannounced Inspections of Conditions for Unaccompanied Alien Children in CBP Custody," *DHS OIG 18-87*, published September 28, 2018, pages 1-15.

²⁰ GAO, "Unaccompanied Children," p. 13.

²¹ GAO, "Unaccompanied Children," p. 13.

stations, holding facilities, and processing centers.²² During this time period, from November 2016 to April 2018, no centralized system existed to identify, track, or connect families separated by DHS.²³

According to the DHS and HHS offices responsible for the care and custody of separated UACs, both offices used separate data systems to maintain information regarding children in their custody. In addition, the DHS did not always maintain information to indicate when a child was separated from his or her parent and did not provide this information to HHS during the transfer process.²⁴ HHS also reported that when DHS did indicate the child had been separated, it was generally anecdotal information that did not include specifics regarding the child's parents or other identifiable information.²⁵ According to Border Patrol and CBP agents, they were not required to indicate the separation in referral notes when sent electronically to ORR.²⁶ Despite the observed increase in separated children, HHS and DHS officials maintained this process throughout 2017 and the first six months of 2018. In June 2018, President Trump signed Executive Order 13841 directing DHS to maintain custody of alien families during any criminal improper entry or immigration proceedings, officially ending the practice of separating families at the Southwest border.

In March 2018, the ACLU filed an amended complaint in federal court on behalf of a class of alien parents who had been separated from their children by the federal government and whose children had been placed in ORR custody.²⁷ This complaint, *Ms.*

²² DHS, "Results of Unannounced Inspections," p. 11.

²³ HHS OIG, "Separated Children Placed in Office of Refugee Resettlement Care," p. 5.

²⁴ GAO, "Unaccompanied Children," p. 16.

²⁵ HHS OIG, "Separated Children Placed in Office of Refugee Resettlement Care," p. 6.

²⁶ GAO, "Unaccompanied Children," p. 17.

²⁷ GAO, "Unaccompanied Children," p. 12.

L v. ICE is an immigration case involving the separation of Ms. L, a native of the Republic of Congo, and her seven year old daughter. According to the filed complaint, there is no official finding as to why Ms. L and her daughter were initially separated upon entering the U.S. and filing for political asylum.²⁸ Additionally, this complaint defines the class of alien parents as those being separated from their children and whose child was in ORR custody as of June 26, 2018.²⁹ Although this complaint was filed on March 9, 2018, the Attorney General issued his second memorandum on the increased enforcement of immigration laws with the announcement of the zero-tolerance policy on April 6, 2018.

However, this case also resulted in the June 26, 2018 federal court order that prohibited the government from detaining class members in DHS custody apart from their minor children and ordered the government to reunite class members with their children.³⁰ The court order also required the reunification of separated class members and their children to be completed by July 26, 2018. During this time, the separations at the Southwest border also garnered national attention and produced a public outcry from media outlets.³¹ Immediately after the federal court order, HHS ORR began measures to identify and reunite separated families. Figure 3 below represents the timeline of key events that occurred from the Attorney General's 2017 issued memorandum and the federal court orders requiring immediate reunification of separated families.

²⁸ Ms. L v. ICE et al., "Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief," in *Case 3:18-CV-0428-DMS-MDD*, filed February 26, 2018.

²⁹ Ms. L v. ICE et al., "Complaint for Declaratory and Injunctive Relief," p. 8-10.

³⁰ GAO, "Unaccompanied Children," p. 12.

³¹ Meg Wagner et al., "What's Happening at the Border," *CNN*, published June 22, 2018, https://edition.cnn.com/politics/live-news/immigration-border-children-separation/h_92e4e39afdc755d2185fbcc7c22f13f0.

Figure 3. Key Events Related to the Separation of Families at the Southwest border.

Key Actions Related to Prioritization of Immigration Offenses for Criminal Prosecution and Separation of Parents and Children Apprehended at the Border

- **April 11, 2017:** Attorney General directs federal prosecutors along the southwest border to prioritize prosecutions of immigration related offenses.
- **March 9, 2018:** The American Civil Liberties Union files an amended complaint in federal court on behalf of a class of alien parents who have been separated from their children by the government and whose children are detained in Office of Refugee Resettlement custody, asking the court to prohibit separation and require reunification of class members with their children.
- **April 6, 2018:** Attorney General directs federal prosecutors along the southwest border to adopt a “zero-tolerance policy” for improper entry immigration-related offenses.
- **April 6, 2018:** President Trump issues a memorandum titled ‘Ending “Catch and Release” at the Border of the United States and Directing Other Enhancements to Immigration Enforcement.’
- **May 4, 2018:** The Secretary of Homeland Security approves prosecuting all adults apprehended crossing the border illegally, including those apprehended with minors, at the recommendation of leaders from three Department of Homeland Security (DHS) agencies.
- **June 20, 2018:** President Trump signed Executive Order 13841 directing DHS to maintain custody of alien families during any criminal improper entry or immigration proceedings involving their members, to the extent possible.
- **June 26, 2018:** A federal court order prohibits the government from detaining class members in DHS custody apart from their minor children and orders the government to reunite class members with their children, absent a determination that the parent is unfit or presents a danger to the child, or the parent affirmatively, knowingly, and voluntarily declines to be reunified with the child.
- **June 27, 2018:** According to U.S. Customs and Border Protection (CBP) officials, CBP issued guidance halting referrals of parents who enter the country illegally as part of a family unit to the Department of Justice for “zero-tolerance” prosecutions and outlines the situations in which children and parents may still be separated.
- **July 10, 2018:** Court-ordered deadline for the reunification of class members and children aged 0-4.
- **July 26, 2018:** Court-ordered deadline for the reunification of class members and children aged 5-17.

Source: GAO analysis of Department of Justice memos, Executive Order 13841, and federal court documents from *Ms. L. v. ICE*, No. 18-0428 (S.D. Cal. Aug. 23, 2018). | GAO-19-163³²

³² GAO, “Unaccompanied Children,” p. 12.

In response to the June 26, 2018 federal court order, DHS and HHS began various actions to identify and reunite children separated from their parents. Per the federal court order issued by Judge Dana Sabraw of the U.S. District Court of California, the DHS, HHS, and DOJ are responsible for the timely and safe identification and reunification of class members and their separated children defined by the *Ms. L v. ICE* case. According to DHS and HHS officials, a class parent met the criteria listed if his or her child was detained in DHS or HHS custody on June 26, 2018.³³ In compliance with the court order, the ORR was assisted by the Assistant Secretary for Preparedness and Response (ASPR) to lead a Reunification Incident Team to identify and reunite the separated children. The ASPR and ORR identified a total of 3,600 potential separated children from their list of 12,000 children in ORR care at the time of the court order.

The offices then identified 2,654 potential children as meeting all the criteria listed in the *Ms. L v. ICE* case and an additional 946 children who had an indication of being separated but did not meet all the criteria.³⁴ The 2,654 identified children are the official number presented to federal court for the ordered deadline and were the focus of reunification efforts during July 2018. Reunification efforts also continued past the July 26, 2018 deadline as DHS and HHS officials identified further children as being separated from their parents and also meeting the class member criteria. As of the December 2018 HHS Office of Inspector General (OIG) report, HHS contends that there are 2,816 total children meeting the *Ms. L v. ICE* criteria and are continuing with reunification efforts. Additionally, as of December 2018, 2,131 of those separated

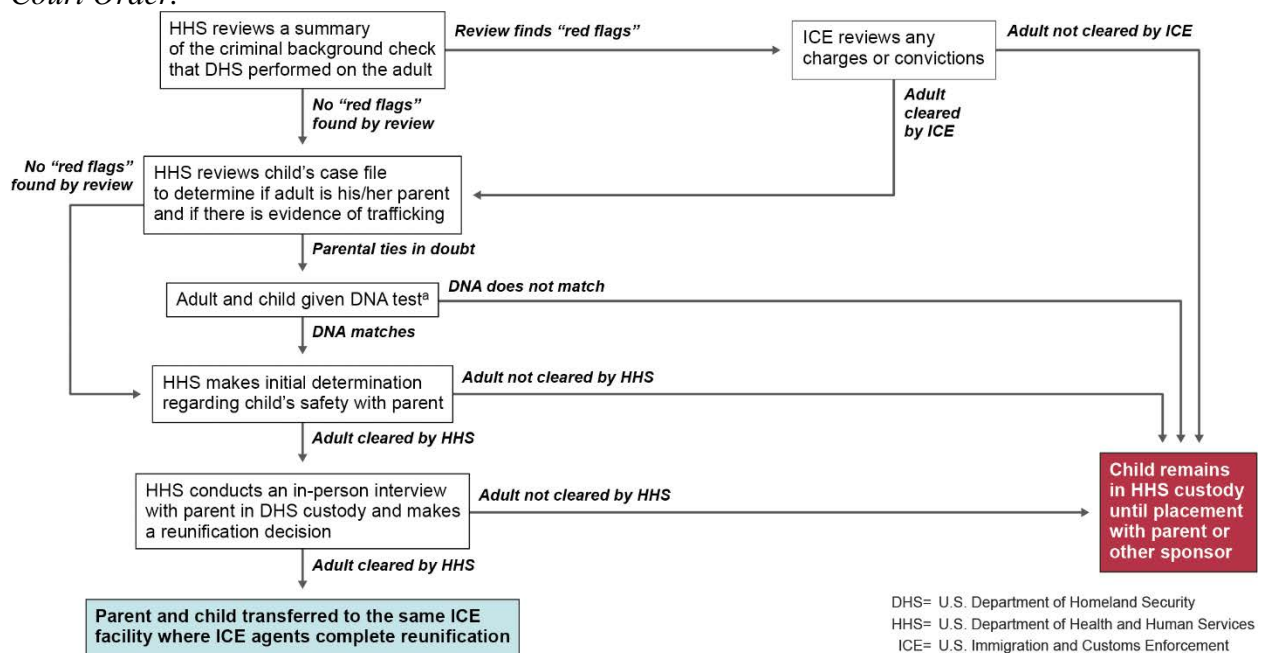
³³ GAO, “Unaccompanied Children,” p. 22.

³⁴ HHS OIG, “Separated Children Placed in Office of Refugee Resettlement Care,” p. 7.

children were reunited with his or her parent.³⁵ However, the December 2018 HHS OIG report also states that the total and current number of all children separated from their parents or guardian is unknown.³⁶ Although this is due various reasons, the unknown number also results from the process used to reunify separated children within the *Ms. L v. ICE* class member criteria and those children who were separated from their parents by DHS and not in ORR custody at the time of the federal court order.

To facilitate the reunification process of separated families falling within the *Ms. L v. ICE* criteria, DHS and HHS created an informal process shown below in Figure 4.

Figure 4. DHS and HHS’ Process to Reunify Children with Parents in U.S. Immigration and Customs Enforcement (ICE) Custody, Developed in Response to the June 26, 2018 Court Order.



Source: GAO analysis of DHS and HHS process to reunify children separated from class member parents at the border. | GAO-19-163

In addition to the process developed, HHS officials stated the ORR’s process for identifying and tracking newly separated children is improving as ICE and CBP officials

³⁵ HHS OIG, “Separated Children Placed in Office of Refugee Resettlement Care,” p. 11.

³⁶ HHS OIG, “Separated Children Placed in Office of Refugee Resettlement Care,” p. 13.

now have a checkbox to indicate a separated child in their newly developed case management system.³⁷ However, the issue that remains as of the December 2018 HHS OIG report is the unknown number of separated children and ORR's inability to identify and reunite those families.

IV. Policy Proposal

The primary goal of this policy proposal is to identify the number of separated children affected by the DOJ's zero tolerance policy and to create an inter-agency task force responsible for overseeing the reunification of separated families. The secondary goal of this policy proposal is to provide those records to the federal court, the ACLU, and other non-governmental organizations (NGOs), who will be responsible for facilitating the reunification of separated families and publishing progress reports. In a joint status report published August 9, 2018 for the *Ms. L v. ICE* case, the ACLU reported it had organized a steering committee to aid the federal government with the reunification process.³⁸ However, the ACLU also stipulated that it would first require accurate information of the separated children from the federal government. This means implementing policies that enforce data review and compilation by HHS and DHS and ensuring there are proper channels of information sharing between agencies, organizations, and NGOs.

The policy authorization tool will be in the form of an amendment to the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVRPA). The

³⁷ HHS OIG, "Separated Children Placed in Office of Refugee Resettlement Care," p. 14.

³⁸ *Ms. L v. ICE et al*, "Joint Status Report," in Case No. 18cv428 DMS MDD, Document 181, filed August 9, 2018.

TVRPA includes conditions that require the government to transfer a UAC to a vetted sponsor shortly after entering ORR custody. The TVRPA updated and codified these requirements from a 1998 federal court case, *Reno v. Flores* (also known as the Flores Agreement), that also sought to protect immigrant children while in federal custody. Neither the TVRPA nor the Flores Agreement, however, require or recommend family separations.^{39 40} Therefore, the proposed TVRPA amendment will include conditions to protect children against future separation and require the federal government to intervene and provide reunification assistance to children and families who were affected by the zero-tolerance policy. Specifically, these conditions should fall under Title II, Subtitle B, Section 212 entitled, “Interim assistance for children.”⁴¹

This amendment will also require the creation of an inter-agency task force between the CBP, ICE, and ORR offices with the DHS and HHS to oversee the identification and record-keeping of every child separated under the zero-tolerance policy dating back to April 2017. Due to the high volume of case files within ORR, there will be an extended time period of three years that allows for responsible vetting of parents and guardians. In addition, the ORR will be responsible for maintaining authority and the power to intervene in special circumstances that pose risk or danger to the child. During the extended time period, ORR, CBP, and ICE are to report their identification records to the Steering Committee organized by the ACLU.

³⁹ Reality Check, “Who decided to separate illegal immigrant families?” *BBC News*, published June 19, 2018, retrieved March 17, 2019, <https://www.bbc.com/news/world-us-canada-44303556>.

⁴⁰ Salvador Rizzo, “Analysis – The facts about Trump’s policy of separating families at the border.” *The Washington Post*, published June 19, 2018, retrieved March 17, 2019, https://www.washingtonpost.com/news/fact-checker/wp/2018/06/19/the-facts-about-trumps-policy-of-separating-families-at-the-border/?utm_term=.ab5bad9aebf4.

⁴¹ H.R. 7311 (110th): William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008.

In their joint status report, the ACLU also reported several businesses and organizations who volunteered to aid with the reunification process by acting as chair members and assisting with the facilitation of communication between children and parents. The law firm of Paul, Weiss, Rifkind, Wharton & Garrison LLP (“Paul, Weiss”) agreed to lead the Steering Committee and take on the responsibility of working with the federal government to locate and facilitate the reunification of class members who have been removed from the U.S. or released into the interior of the U.S. without their children.⁴²

Paul, Weiss is also responsible for collecting and organizing contact information; coordinating and facilitating the location of separated families with the help of NGOs; assisting the NGOs in determining families’ wishes with respect to their reunification options and organizing and collecting that data, liaising with representatives for the children to facilitate communication between child and parent; assessing the children’s interests and preferences with respect to reunification; providing information to the federal court and federal government regarding families who request reunification; advising the ACLU regarding families who may need be referred to additional, individual counsel before making a decision regarding reunification; and communicating with the federal court regarding the efforts of the Steering Committee and the federal government to reunify families. In the proposed amendment, the responsibilities of Paul, Weiss will be expanded to include class and non-class members, as pertaining to the Ms. L v. ICE case classification and other families affected by the zero-tolerance policy.⁴³ Under the

⁴² Ms. L v. ICE et al, “Joint Status Report,” in Case No. 18cv428 DMS MDD, Document 181, filed August 9, 2018.

⁴³ Ms. L v. ICE et al, “Joint Status Report,” August 9, 2018.

inter-agency task force, Paul, Weiss will continuously communicate to this organization the ongoing efforts and reports of the reunification process.

The ACLU also recruited the help of three NGOs to aid with the reunification process. These NGOs include KIND (Kids in Need of Defense), Women’s Refugee Commission (WRC), and Justice in Motion, and will among other tasks, facilitate communication regarding the wishes of parents and children who are still separated, and provide in-country support for locating separated parents who have been removed from the United States. In addition to the NGOs listed, there are numerous smaller NGOs who have voiced their support to aid families with the reunification process. These NGOs include We The Action, Florence Immigration & Refugee Rights Project, The Innovation Law Lab, Human Rights First, the American Immigration Lawyers Association, etc.⁴⁴ To maintain support and aid for this proposal, grants will be awarded to NGOs who apply and demonstrate their active role in the facilitation and reunification of separated families. This includes actions such as communication, transportation, and housing.

According to HHS’ November 2018 *Report to Congress on Separated Children*, the reunification process for the 2,667 children in ORR’s care is approximately \$80,350,000.⁴⁵ This means that the average cost per child through this process is approximately \$30,000.⁴⁶ Figure 5 provides the detailed breakdown of the costs incurred.

⁴⁴ Together Rising, “Ways you can help separated families beyond giving,” *Together Rising*, published June 28, 2018, <https://togetherrising.org/ways-you-can-help-separated-families-beyond-giving/>.

⁴⁵ HHS, “Report to Congress on Separated Children,” provided to Appropriations Subcommittee responsible for funding HHS, published November 20, 2018, <https://delauero.house.gov/media-center/press-releases/delauro-statement-hhs-report-detailing-family-separation-costs>.

⁴⁶ Caitlin Dickerson, “The Price Tag of Migrant Family Separation: \$80 million and Rising,” *The New York Times*, published November 20, 2018, <https://www.nytimes.com/2018/11/20/us/family-separation-migrant-children.html>.

Figure 5. Estimate of Expenditures in FY 2018 and FY 2019⁴⁷.

Number of Children	Average Days in ORR Care - per child	Estimated Shelter Costs - including Education and Food	Estimated DNA Screening	Estimated Medical Services	Estimated Legal Services	Case Management and Program Support	Total Estimated Cost
2,667	83	\$58,800,000	\$1,400,000	\$2,670,000	\$4,010,000	\$13,470,000	\$80,350,000

Because the majority of the unidentified children are not in ORR custody, the costs of reunification will decrease by approximately \$65,480,000. This decrease results from services no longer needed to provide to children in ORR custody such as shelter costs, medical services, and legal services. This results in an estimated \$14,870,000 for case management and program analysis and DNA screening for roughly 2,500 unidentified children.

As stated previously, to implement this policy proposal grants will be awarded to those NGOs who demonstrate their active role in facilitating and reuniting families. Certain estimates speculate that the transportation costs per child could cost between \$3,000 to \$5,000.⁴⁸ One NGO raised \$37,000 in twenty-four hours after a campaign for #FlightsforFamilies began to help cover the costs of transportation fees.⁴⁹ Grants awarded to NGOs to help facilitate media campaigns and garner this type of support will significantly decrease the cost and estimates to the federal government. Additionally, tax

⁴⁷ HHS, "Report to Congress on Separated Children," p. 10.

⁴⁸ Gina Martinez, "Thousands Are Expected to Attend the Families Belong Together Marches Across the U.S. Here's What to Know," *TIME*, published June 29, 2018, <http://time.com/5323351/families-belong-together-march-june-30/>.

⁴⁹ Soraya Ferdman, "Families at the border can't afford to be reunited. Here's how you can help," Mashable, published July 13, 2018, <https://mashable.com/article/flight-for-families-fundraiser-migrant-families-reunification-cost/#lEqjD4RjGsqK>.

credits issued to law firms offering their legal services would significantly decrease the cost to the federal government. The number of law firms and NGOs willing to offer their services and aid with the facilitation and reunification of separated families is strong and would allow the federal government to only maintain oversight responsibilities during this process.

V. Policy Analysis

This policy proposal offers an effective and cost-efficient plan to identify and help facilitate the reunification of separated children. This proposal decreases the communication, housing, medical and legal services and costs the federal government originally provided for the separated children under the *Ms. L v. ICE* court order. If the proposal takes into account the estimated eleven thousand separated children affected by the DOJ's policy, then the estimated cost is \$65,428,000.⁵⁰ This total is based on the HHS' November 2018 *Report to Congress on Separated Children* and includes the cost of case management and program support and DNA screenings.⁵¹ The \$65,428,000 is cost effective because it is less than the HHS' original total costs of \$80,350,000 for the care of the 2,816 identified separated children in its custody.⁵² However, it is important to note that the \$65 million is the total cost for approximately 11,000 children and does not take into account the 47,083 children ORR originally reported in their findings. If the proposal takes into account the total number of children then the estimated cost will

⁵⁰ *Estimate based off own calculations.*

⁵¹ HHS, "Report to Congress on Separated Children," p. 10.

⁵² HHS, "Report to Congress on Separated Children," p. 10.

increase, however, it would still increase at a lower rate than HHS' current costs because the unidentified children are not in ORR custody.

The creation of an inter-agency task force also recognizes that one agency does not have the resource capacity to implement the policy alone.⁵³ An inter-agency task force would draw resources from DHS, HHS, and the DOJ to help facilitate the reunification process. However, inter-agency task forces are historically known for criminal investigations into activity determined to be a threat to the security of the U.S.⁵⁴ The reunification of separated children is not considered a threat to national security and therefore may not qualify for an inter-agency task force. On the other hand, inter-agency collaboration groups are known to be effective tools for problems within the federal government. For example, in 2010 Congress passed the GPRA Modernization Act, which provided the Office of Management and Budget resources for "outcome-oriented goals covering a limited number of crosscutting policy areas," in response to certain crises which showed severe limitations in existing structures.⁵⁵ OMB recognized the importance of interagency collaboration to foster positive working relationships and also to procure results pertaining to certain policy outcomes.

Recent federal law enforcement task force groups along the Southwest border provide evidence to the success of interagency collaboration. For example, the Border

⁵³ Office for Victims of Crime, "Advantages of a Task Force," *Office of Justice Programs*, U.S. Department of Justice, accessed April 19, 2019, <https://www.ovcttac.gov/taskforceguide/eguide/2-forming-a-task-force/21-advantages-of-a-task-force/>.

⁵⁴ Jerome P. Bjelopera and Kristin Finklea, "Domestic Federal Law Enforcement Coordination: Through the Lens of the Southwest Border," *Congressional Research Service*, R43583, published June 3, 2014, p. 1 – 40.

⁵⁵ Frederick M. Kaiser, "Interagency Collaborative Arrangements and Activities: Types, Rationales, Considerations," *Congressional Research Service*, R41803, published May 31, 2011, 1-37.

Enforcement Security Task Force (BEST) initiative created a partnership between ICE, DEA, and the U.S. Border patrol along with state and local law enforcement to focus on criminal efforts exploiting the U.S. – Mexican border via underground tunnels.⁵⁶ Since the 1990s, the task force has discovered over 150 tunnels along the U.S. Mexican border, and there has been an 80% increase in tunnel detection since 2008.⁵⁷ Another example, are the ATF Violent Crime Impact Teams (VCIT) along the Southwest border that includes a partnership between the various DOJ divisions and the ATF. In 2012, the ATF noted that since 2004, its VCITs have “obtained convictions of 4,950 defendants with nearly 84% sent to prison.”⁵⁸ This data suggests that interagency task force groups are effective at producing measurable success such as arrests and detections and could be applicable to the number of reunified children.

The above task forces mentioned, however, are restricted to law enforcement operations. Major disasters such as Hurricane Katrina demonstrate the success of interagency collaboration to reunite children and families. For example, in the aftermath of Hurricane Katrina in 2005, the National Center for Missing and Exploited Children (NMEC) received 5,192 reports of displaced children, who were stated as separated from their parents.⁵⁹ According to the NMEC, it took seven months to reunite every child with their family member.⁶⁰ Additionally, the NMEC states this reunification process was possible due to the interagency collaboration efforts by the Federal Emergency

⁵⁶ Bjelopera, “Domestic,” p. 12.

⁵⁷ Bjelopera, “Domestic,” p. 23.

⁵⁸ Bjelopera, “Domestic,” p. 26.

⁵⁹ Sharon Hawa, “Children Separated by Disasters: Reunification Challenges and Resources,” *International Association of Emergency Management*, published June 2014, <https://www.iaem.org/portals/25/documents/Hawa-Article-IAEM-Bulletin-June2014.pdf>.

⁶⁰ Hawa, “Children Separated by Disasters,” 1.

Management Association (FEMA), NCMEC’s developed Unaccompanied Minors Registry (UMR), HHS, the American Red Cross, and various law enforcement, social services, and emergency management agencies.⁶¹ The above agencies also collaborated to create a publication entitled, “Post-Disaster Reunification of Children: A Nationwide Approach,” which is a framework designed to help develop reunification plans. The plan states that reunification is a team effort that involves many players from all levels of government and also states that federal Reunification Task Forces are critical to working with local and state officials in the process of reuniting families.⁶² Figure 6 is an example of the process task forces can follow when reuniting children and parents.

Figure 6. Minor Separated from Parent or Guardian Process⁶³



⁶¹ Hawa, “Children Separated by Disasters,” 1.

⁶² “Post-Disaster Reunification of Children: A Nationwide Approach,” Federal Emergency Management Agency et al, published May 2014, https://www.fema.gov/media-library-data/1384376663394-eef4a1b4269de14faff40390e4e2f2d3/Post_Disaster_Reunification_of_Children_-_A_Nationwide_Approach.pdf.

⁶³ “Post-Disaster Reunification of Children: A Nationwide Approach,” p. 33.

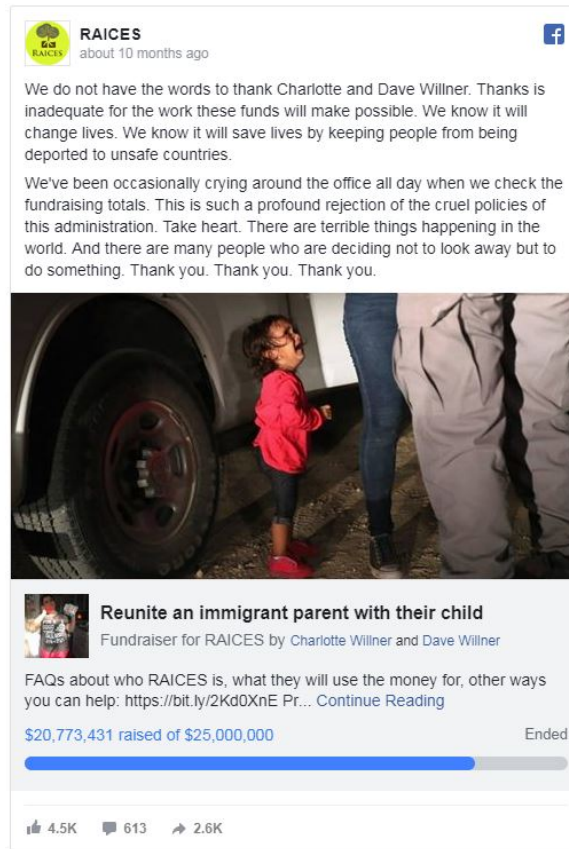
While the reunification of children in the aftermath of Hurricane Katrina relied on interagency collaboration, it also relied on NGO support such as the American Red Cross and other various organizations. By administering grants to NGOs who demonstrate their active role in the facilitation of the reunification process, this policy may incentivize other NGOs to create additional programs to help separated families. The support provided to NGOs also encourages these organizations to create and promote media campaigns to garner attention and gather support in the form of donations similar to the #FlightforFamilies campaign.

These media campaigns not only provide accessible communication platforms to separated families such as Facebook, but they are also an effective method to recruit for other organizations to help with the reunification process. For example, organizations such as the International Rescue Committee, ActBlue, the ACLU, and the Refugee and Immigrant Center for Education and Legal Services (RAICES) have donation portals on their websites to raise money for free and low-cost legal services to immigrant children and refugees.⁶⁴ Also, according to RAICES, one Facebook fundraiser for the reunification of an immigrant parent and their child raised over \$10 million in four days and ended with a total \$20 million.⁶⁵ The contributions NGOs can provide for the reunification process are significant and require an accurate account of separated children. Figure 7 below demonstrates the impact NGOs have on raising donations for the reunification of children.

⁶⁴ Megan Leonhardt, "Here's where to donate to help migrant children and families at the border," *CNBC*, published June 20, 2018, <https://www.cnbc.com/2018/06/20/where-to-donate-to-help-immigrant-children-and-families-at-the-border.html>.

⁶⁵ Fundraiser for RAICES, "Reunite an immigrant parent with their child," *Facebook*, published June 16, 2018, <https://www.facebook.com/donate/490507544717085/>.

Figure 7. Fundraiser for RAICES⁶⁶



In addition, HHS officials have noted that the majority of discharged UACs in their custody during FY2018 and FY2019 were released to parents or relatives. According to HHS officials, in FY2018, 86% of children in ORR custody were discharged to a vetted sponsor. The breakdown states that 42% of those children were released to parents, 47% were released to close relatives and 11% were released to distant relatives or friends.⁶⁷ In FY2019, 89% of children in ORR custody were released to vetted sponsors. This breakdown states 46% of children were released to parents, 45% to

⁶⁶ Fundraiser for RAICES, <https://www.facebook.com/donate/490507544717085/>.

⁶⁷ Jonathan White, "Declaration," p. 8.

close relatives, and 9% to distant relatives or friends.⁶⁸ This assertion indicates that the majority of unknown separated children under the DOJ policy were released to a family member. Figure 8 represents a GAO analysis of historical ORR data on discharging and releasing unaccompanied minors.

*Figure 8. Sponsors' Relationship to Unaccompanied Children from El Salvador, Guatemala, and Honduras (Released from Custody from January 7, 2014, through April 17, 2015)*⁶⁹



It is important to note that the information presented above does not provide an accurate account of the number of children who were separated from a parent, discharged from ORR custody, and released to a non-relative or unknown sponsor. This leaves an unknown number of children who may have been brought to the U.S. by a parent and then separated without the ability to communicate or facilitate reunification. It is possible that there is a disproportionate number of children released to foster facilities and without a policy to identify these children, it is likely these children will not be able to reunite with family members.⁷⁰ This policy proposal and data can provide a starting point to identify the number of children released to non-relatives and determine if those discharged children were originally separated from a parent. This starting point would

⁶⁸ Jonathan White, "Declaration," p. 8.

⁶⁹ GAO, "Unaccompanied Children: DHS and HHS Have Taken Steps to Improve Transfers and Monitoring of Care, but Actions Still Needed," *GAO-18-506T*, published April 2018, pages 1-16.

⁷⁰ Dara Lind, "It's official: we'll never know the real scope of Trump's family separation crisis," *Vox*, updated January 17, 2019, <https://www.vox.com/policy-and-politics/2019/1/17/18186773/families-children-separated-trump-thousands>.

also significantly decrease the number of case files for review if the priority begins with children released to non-relative foster care.

However, HHS official Jonathan White, the former Deputy Director for the ORR and currently under the ASPR provides a counter argument to reuniting previously separated children. In his declaration on February 1, 2019 for the *Ms. L v. ICE* case, White states, “my professional opinion as a social worker, and based on my years of experience working with the UAC population, is that entering households to remove previously-separated minors, bring them back into ORR custody, and reunify them with separated parents would present grave child welfare concerns.”⁷¹ White continues to argue that this type of intervention would destabilize the permanency of the separated child’s existing home environment, cause a traumatic incident, and that it is in the best interest of the child to keep them with their sponsor.⁷² White’s statements are further supported by the ORR data that states the majority of children were released to parents or close family members and are therefore in a stable environment.

In contrast, the American Academy of Pediatrics (AAP) argues that children separated from their parents experience a traumatic event. The president of the AAP states that separating children is a contradiction of protecting and promoting children’s health and a highly stressful situation.⁷³ In addition, the separation experience can cause irreparable harm, disrupting a child’s brain architecture, affecting his or her short and long term health, and a prolonged exposure to this serious stress can cause lifelong

⁷¹ Jonathan White, “Declaration,” p. 9.

⁷² Jonathan White, “Declaration,” p. 9.

⁷³ Colleen Kraft, “AAP Statement Opposing Separation of Children and Parents at the Border,” American Academy of Pediatrics, published June 8, 2018, <https://www.aap.org/en-us/about-the-aap/aap-press-room/Pages/StatementOpposingSeparationofChildrenandParents.aspx>.

consequences.⁷⁴ Both of these statements indicate that the policy proposal and reunification process should take into consideration the best interest of the child and that conducting independent case reviews are necessary.

VI. Political Analysis

The TVRPA policy proposal is in line with Democratic Party goals to reunite families separated at the U.S. – Mexico border as a result of the DOJ’s zero-tolerance policy. On July 17, 2018, Democratic Senators Kamala Harris of California, Jeff Merkley of Oregon, and Catherine Cortez Masto of Nevada introduced the *Reunite Every Unaccompanied Newborn Infant, Toddler and Other Children Expeditiously* (REUNITE) bill.⁷⁵ The REUNITE Act was intended to expedite the family reunification process for the July 26, 2018 court-ordered deadline and also called for the establishment of a ‘permanent system’ to ensure the protection of detained immigrants with children.⁷⁶ This bill was also co-sponsored by seventeen senators and is still currently in the legislative process.⁷⁷

The REUNITE Act also calls for the allocation of \$50,000,000 from ICE to carry out the reunification process and no less than \$15,000,000 for enhanced protections for

⁷⁴ Kraft, “AAP Statement,” p. 1.

⁷⁵ Chantal Da Silva, “Democrats Launch Bill to Reunite All Separated Immigrant Families ‘Immediately’ Using ICE Funds,” *Newsweek*, published July 18, 2018, <https://www.newsweek.com/democrats-launch-bill-reunite-all-separated-immigrant-families-immediately-1030228>.

⁷⁶ Da Silva, “Democrats,” *Newsweek*.

⁷⁷ ProRepublica, “Bills About Immigration Sponsored by Kamala Harris (D-Calif.),” *ProRepublica Inc.*, accessed April 12, 2019, <https://projects.propublica.org/represent/members/H001075/bills-for-category/immigration/115>.

current and future separated families.⁷⁸ This budget allocation is also in line with the TVRPA's estimated costs for the reunification for the number of unidentified children affected by the separation policy. However, the consequences of removing funds from ICE operations is unknown and may cause a disruption in the organizations' function. Additionally, HHS reportedly re-allocated over \$79 million from programs for refugee resettlement and the Ryan White HIV/AIDS Program to cover the costs of the July 2018 court-ordered family reunification deadline.⁷⁹ According to a former HHS official, ORR reported that the entire appropriation for unaccompanied alien children in FY18 alone was \$1.3 billion.⁸⁰ This report may cause hesitation among appropriation committee members to continue funds for the reunification of families considering the high cost and disruption to other HHS programs and operations. This information has also caused congressional members to question the effectiveness of the HHS ORR programs and request hearings from department officials.

In recent months, presidential appointees including HHS Secretary Alex Azar, DHS Secretary Kirstjen Nielson, former AG Jeff Sessions, and acting AG Matthew Whitaker have come under congressional and public scrutiny in response to the family separation policy. In November 2018, Democratic members of the House Judiciary Committee sent a letter to HHS Secretary Alex Azar, DHS Secretary, and the acting AG regarding the HHS IG report on family separation policies, facility conditions and

⁷⁸ U.S. Congress, Senate, "*Reunite Every Unaccompanied Newborn Infant, Toddler and other children Expeditiously Act*," MDM18750, 115th Congress, 2nd Session, introduced in Senate July 17, 2018, <https://www.harris.senate.gov/imo/media/doc/REUNITE%20Act.pdf>.

⁷⁹ Mark Joseph Stern, "Trump's Office of Refugee Resettlement is Budgeting for Surge in Child Separations," *Slate*, published July 10, 2018, <https://slate.com/news-and-politics/2018/07/trumps-office-of-refugee-resettlement-is-budgeting-for-a-surge-in-child-separations.html>.

⁸⁰ Stern, "Trump's Office of Refugee Resettlement is Budgeting for Surge in Child Separations," *Slate*.

requested an immediate briefing.^{81 82} This notice is in response to the HHS IG report and months of negative public outcry at the Trump administration's implementation and operation of the family separation policies. The Democratic members of the House Judiciary committee expressed concern over the Administrations' family separation policy and allege they are conducting a "long-overdue oversight" review of the status of separated children and parents, and the "longstanding damage these policies may have had on families detained."⁸³

According to The Brookings Institution, Democrats and Republicans including former House Speaker Paul Ryan, reportedly distanced their selves from the policy as media outlets began to denounce the practice.⁸⁴ Senior advisor to President Trump, Kellyanne Conway, stated on "Meet the Press" that "no one likes this policy," and First Lady Melania Trump issued a statement that said, "We need to be a country that follows all laws, but also one that governs with heart."⁸⁵ In contrast, some House Republicans voiced their support over the family separation policy including Rep. Steve King, (R-Iowa) who stated, "These children are cared for with better care than they get in their

⁸¹ Press Release, "Ranking Member Nadler Gives Notice to Acting AG Whitaker, HHS Secretary Azar, & DHS Secretary Nielson Demanding Answers on Family Separation Policies," *U.S. House Committee on the Judiciary*, published November 20, 2018, <https://judiciary.house.gov/news/press-releases/ranking-member-nadler-gives-notice-acting-ag-whitaker-hhs-secretary-azar-dhs>.

⁸² Press Release, "Democrats Send Letter to HHS Secretary Azar Regarding IG Report Finding Largest Migrant Child Detention Camp in U.S. Failed to Conduct Required Background Checks on Staff," *U.S. House Committee on the Judiciary*, published November 29, 2018, <https://judiciary.house.gov/news/press-releases/democrats-send-letter-hhs-secretary-azar-regarding-ig-report-finding-largest>.

⁸³ Press Release, "Ranking Member Nadler," *U.S. House Committee on the Judiciary*.

⁸⁴ William A. Galston, "As Trump's zero-tolerance immigration policy backfires, Republicans are in jeopardy," *The Brookings Institution*, published June 18, 2018, <https://www.brookings.edu/blog/fixgov/2018/06/18/trumps-zero-tolerance-immigration-policy-puts-republicans-in-jeopardy/>.

⁸⁵ Galston, "Republicans in Jeopardy," *The Brookings Institution*.

home country.”⁸⁶ Former AG Jeff Sessions also voiced the zero-tolerance policy by quoting the Bible to defend the “orderly and law processes,” and also stated the policy is intended to be a deterrent.⁸⁷ However, House Republican critics such as Representative Kevin Cramer (R-N.D.) also distanced their selves in attempts to preserve their support for the November 2018 midterm elections, which the Republican party ultimately lost. It is evident the separation policy elicited controversial responses from political officials, but it also elicited a negative reaction from the public.

In a Quinnipiac and CNN poll, voters disapproved of the Trump administration policy 66% to 27% and 67% to 28%, respectively.^{88 89} In the polls, Republican respondents made up the majority for those supporting the family separation policy, with the majority of Democrats opposing it. The Quinnipiac poll also provides a breakdown of the demographics for political party, ethnicity, education, age, and gender in relation to the voters. Figures 9 and 10 demonstrate the reaction voters have towards the separation of immigrant families.

⁸⁶ Amber Phillips, “How Republicans are divided over Trump’s immigration policy: For it, against it and keeping their mouths shut,” *The Washington Post*, published June 19, 2018, https://www.washingtonpost.com/news/the-fix/wp/2018/06/19/is-trump-losing-his-support-in-congress-for-separating-families-at-the-border/?utm_term=.f1f5c854f012.

⁸⁷ Phillips, “Republicans divided,” *The Washington Post*.

⁸⁸ Release Detail, “June 18, 2018 – Stop Taking the Kids, 66 Percent of U.S. Voters Say, Quinnipiac University National Poll Finds; Support for Dreamers is 79 Percent,” *Quinnipiac University Poll*, published June 18, 2018, <https://poll.qu.edu/national/release-detail?ReleaseID=2550>.

⁸⁹ SSRS, “CNN Study,” *CNN*, embargoed for release on June 18 at 4 p.m., <http://cdn.cnn.com/cnn/2018/images/06/18/rel6a.-immigration.pdf>.

Figure 9. Quinnipiac Poll: June 28, 2018 – Stop Taking the Kids⁹⁰

25. As you may know, some families seeking asylum from their home country cross the U.S. border illegally and then request asylum. In an attempt to discourage this, the Trump administration has been prosecuting the parents immediately, which means separating parents from their children. Do you support or oppose this policy?

	Tot	Rep	Dem	Ind	Men	Wom	WHITE..... COLLEGE DEG	
							Yes	No
Support	27%	55%	7%	24%	32%	22%	26%	37%
Oppose	66	35	91	68	61	70	68	52
DK/NA	8	11	2	8	7	9	6	12
	AGE IN YRS.....				WHITE.....			
	18-34	35-49	50-64	65+	Men	Wom	Wht	Blk
Hsp								
Support	16%	29%	30%	30%	38%	25%	31%	12%
14%								
Oppose	80	61	65	60	55	65	60	88
80								
DK/NA	5	10	5	10	8	10	9	-
6								

Figure 10. CNN poll conducted by SSRS published June 18, 2018⁹¹

Q17. As you may know, the Trump administration has changed its policy toward immigrants who are detained at the U.S. border for coming into the country illegally. More of them are being criminally charged and sent to jail even if their children are with them and, as a result, there has been a significant increase in the number of young children who have been separated from their parents at the border and placed in government facilities. In general, do you approve or disapprove of this?

	Approve	Disapprove	No opinion
June 14-17, 2018	28%	67%	5%

Despite the support by Republican respondents, the majority of voters oppose the policy of separating families. In fact, the policy also resulted in public protests and demonstrations. For example, on June 19, 2018, DHS Secretary Nielson received

⁹⁰ Release Detail, “Stop Taking the Kids,” *Quinnipiac University Poll*.

⁹¹ SSRS, “CNN Study,” *CNN*.

immediate backlash when activists arrived at a restaurant Secretary Nielson was dining at to protest the policy.⁹² On June 20, 2018, President Trump signed the executive order to end the separation of immigrant families, however, thousands of people still marched in protest over the reunification families the weekend of June 30, 2018.⁹³ These negative public demonstrations suggest that the topic of immigration is growing as a serious concern for the Trump administration and an issue that may require future legislative address.

For example, according to an Associated Press-NORC Center for Public Affairs Research poll conducted shortly before the 2018 – 2019 federal government shutdown began, this survey found that both Republicans and Democrats are far more likely to include immigration in their top list of issues facing the country this year.⁹⁴ According to the poll, 49 percent of respondents mentioned immigration as a top five problem for 2019, in contrast to the 27 percent concerned about immigration as an issue in December 2017.⁹⁵ Lastly, this poll demonstrates that two-thirds of respondents who named immigration as a top priority also expressed little confidence in the current administration's ability to make progress.⁹⁶ The AP-NORC poll can be seen below in Figure 11.

⁹² Sarah Mervosh, "Kirstjen Nielsen Is Confronted by Protesters at Mexican Restaurant: 'Shame!'," *The New York Times*, published June 20, 2018, <https://www.nytimes.com/2018/06/20/us/kirstjen-nielsen-protesters-restaurant.html>.

⁹³ All Things Considered, "Backlash Continues to Grow Against 'Zero Tolerance' Policy," *NPR*, published July 2, 2018, <https://www.npr.org/2018/07/02/625406611/backlash-continues-to-grow-against-zero-tolerance-policy>.

⁹⁴ Nicholas Riccardi and Hannah Fingerhut, "AP-NORC Poll: Immigration among the top concerns in 2019," *Associated Press*, published January 4, 2019, <http://apnorc.org/news-media/Pages/AP-NORC-Poll-Immigration-among-the-top-concerns-in-2019.aspx>.

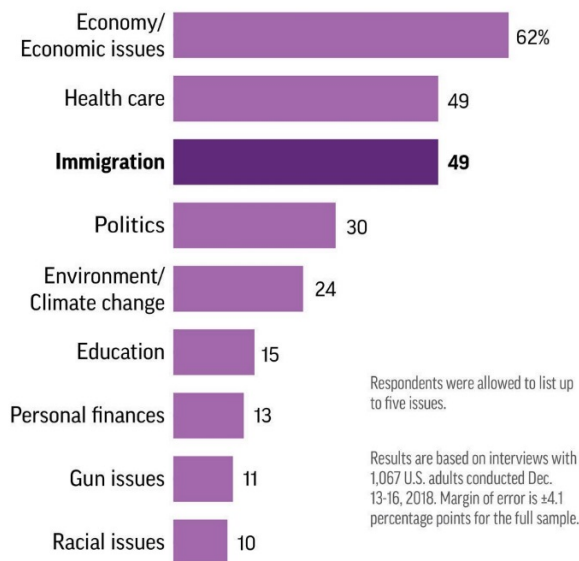
⁹⁵ Nation, "Immigration among the top concerns in 2019, poll shows," *PBS NewsHour*, published January 4, 2019, <https://www.pbs.org/newshour/nation/immigration-among-the-top-concerns-in-2019-poll-shows>.

⁹⁶ Nation, "Immigration," *PBS NewsHour*.

Figure 11. AP-NORC poll on government policy priorities in 2019.⁹⁷

Poll: Immigration among top issues
Americans continue to name the economy and health care as top priorities, but an AP-NORC Center poll finds 49 percent also mention immigration as a problem facing the nation, up from one year ago.

In an open-ended question, percentage of Americans who name each of the following as issues for the government to work on in 2019:



SOURCE: AP-NORC Center for Public Affairs Research

AP

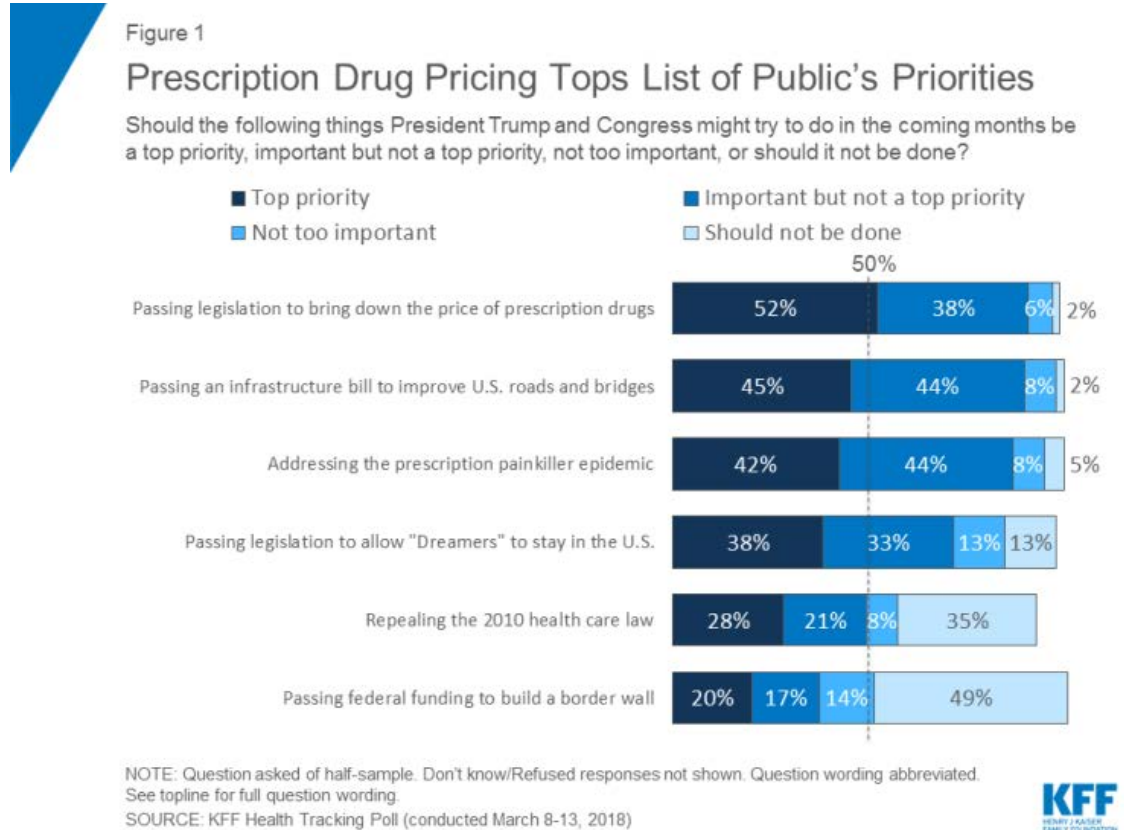
In HHS Secretary Alex Azar’s confirmation hearings, Azar advocated for four central priorities to guide him during his role. These central priorities include to lower drug prices, to provide affordable health care, to shift Medicare to create incentives for good health outcomes, and to fight “the scourge of the opioid epidemic.”⁹⁸ In a 2016 – 2018 Prescription Drug Pricing Poll conducted by Public Citizen, 90 percent of Americans favored legislation to bring down the price of prescription drugs as a top or

⁹⁷ Riccardi, “AP-NORC poll,” *Associated Press*.

⁹⁸ Amy Goldstein and Juliet Eilperin, “HHS nominee Alex Azar testifies on government role in lowering drug costs,” *The Washington Post*, published November 29, 2017, https://www.washingtonpost.com/national/health-science/hhs-nominee-alex-azar-testifies-on-government-role-in-lowering-drug-costs/2017/11/29/3a0e7518-d511-11e7-95bf-df7c19270879_story.html?utm_term=.d1539c575e1e.

important priority.⁹⁹ In addition, the Kaiser Family Foundation also found that lowering drug costs was a higher priority than immigration issues such as legislation for “Dreamers.”¹⁰⁰ Figure 12 demonstrates how prescription drug pricing is a top priority for a significant number of Americans.

Figure 12. Kaiser Health Tracking Poll – March 2018: Views on Prescription Drug Prices



The above polling data suggests that lowering prescription drugs is a higher priority for Americans than immigration issues, despite the growing public demonstrations as a result of the family separation policy. Additionally, according to the

⁹⁹ “Prescription Drug Pricing Polling Results, 2016 – 2018,” Public Citizen, accessed April 13, 2019, <https://www.citizen.org/sites/default/files/rx-polling-results-2016-2018.pdf>.

¹⁰⁰ Ashley Kirzinger et al., “KFF Health Tracking Poll – March 2018: Views on Prescription Drug Pricing and Medicare-for-all Proposals,” *Henry J. Kaiser Family Foundation*, published March 23, 2018, <https://www.kff.org/health-costs/poll-finding/kaiser-health-tracking-poll-march-2018-prescription-drug-pricing-medicare-for-all-proposals/>.

previously mentioned CNN polls and data featured in Figure 13 below, this information shows that health care policy has a lower approval rating than immigration policy.¹⁰¹ This evidence indicates health care policy and drug costs may have a higher priority for the Trump administration rather than immigration and family reunification.

Figure 13. Approval ratings for health care policy and immigration.¹⁰²

Q3. (A2) Do you approve or disapprove of the way Donald Trump is handling (INSERT ITEM)?

Health care policy	Approval	Disapprove	No opinion
June 14-17, 2018	35%	59%	9%

Immigration	Approval	Disapprove	No opinion
June 14-17, 2018	33%	54%	13%

Overall, the political ramifications from the family separation policy have produced a negative public reaction, a negative Democratic Party reaction, and a mixed Republican Party reaction. Although polling data on support to continue family reunification is limited, the policy itself is highly unpopular. Legislative efforts such as the REUNITE bill are still underway to aid families in the reunification process, however, other policies, including lowering drug costs, may take priority for future HHS policies and the Trump Administration’s agenda.

VII. Recommendation

The separation of children and parents at the U.S. – Mexico border was an unintended consequence, yet a direct result of the DOJ’s zero-tolerance policy. Therefore,

¹⁰¹ SSRS, “CNN Study,” *CNN*.

¹⁰² SSRS, “CNN Study,” *CNN*.

the DOJ, HHS, and DHS, should take responsibility for the separation and trauma imposed on these immigrant families affected and facilitate the reunification of children and parents through the TVRPA policy proposal.

HHS Secretary Azar and various Republican and government officials have argued that to reunify a child with a parent through the process of removing that child from their current environment is more harmful to their health than not.¹⁰³ In addition, HHS officials have demonstrated that the majority of the UACs released to sponsors in FY2018 and FY2019 were released to parents or close relatives.¹⁰⁴ These statements and statistics suggest that the majority of children who may have been separated under the DOJ zero-tolerance policy were reunited with parents or relatives and it is therefore unnecessary to track down, review, and facilitate reunification for every child separated. In addition, polling data and HHS policy guidance suggests that there are higher priorities for the current administration to focus on such as lowering drug costs. The current administration's priorities can stall and decrease the likelihood of the TVRPA amendment to pass through Congress. As a result, children who were separated and placed in foster care or different environments are now used to their new environments. However, these issues ignore the statement that there is still an unknown number of separated children.

It is the responsibility of the federal government to be accountable for identifying the number of unknown children. The identification of children and sharing of this information is important to allow for reunification, if necessary, to occur. The policy proposal, including case review, operations, oversight, and the reunification process, is

¹⁰³ Jonathan White, "Declaration," p. 9.

¹⁰⁴ Jonathan White, "Declaration," p. 8.

also cost-effective, is an interagency collaborative effort, and is supported by the majority of Americans. Aside from providing the names and information of children separated, the majority of the reunification process also falls with the various law firms and NGOs who have volunteered their services in support of this kind of policy. Because the majority of UACs in FY2018 and FY2019 were released to close relatives or family, then the reunification process may require less funding and resources for oversight. This also suggests that the requirement for a creation of an interagency task force is unnecessary because the task at hand requires less effort. Therefore, it is recommended that an interagency collaborative committee is more appropriate to oversee the information sharing, identification, and review process. Overall, the TVRPA proposal is important to provide awareness to all parties involved and provide families the ability of reunification in the future.

Curriculum Vitae

EDUCATION

- 2019 M.A. Public Management, Johns Hopkins University, Washington DC
2017 B.A. History, minor in Public History, University of Maryland Baltimore County, Rockville, MD, Summa Cum Laude, President's List

PROFESSIONAL EXPERIENCE

U.S. Department of Justice, Office of the Inspector General (OIG), Investigations Division

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Administrative & Office Support Student Trainee, December 2017 to Present

- Responsible for identifying, analyzing, and entering allegations of fraud, waste, and abuse into the Department of Justice, OIG internal database and relaying information to federal investigators and forensic auditors
- Responsible for gathering, analyzing, and evaluating unclassified OIG historical arrest records to reconcile with domestic intelligence data from the National Crime Information Center records in preparation for reports

National Institute of Standards and Technology (NIST), Office of Weights and Measures

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Administrative Student Trainee, October 2016 to December 2017

- Edited 8 NIST Handbooks, composing over 1,000 pages, for final use by regulators in the oil and gas, agriculture, and coal industries
- Filed, scanned, digitally imaged, edited, and organized over 150 years' worth of NIST documents and publications so regulatory community can better trace the history of national weight and measurement standards
- Liaised with National Meter and Watt-hour regulators to coordinate government-led industry conferences
- Assisted with outreach programs that educate students and teachers about metrology

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Archive and Project Intern, June 2016 to September 2016

- Archived African American Church collection for Maryland State Archives by selecting relevant information from photographic and documented sources
- Produced technical report on African American collection for Maryland Historical Trust
- Designed technical collection intake form for archival use
- Compiled data and research for several projects including a C&O canal bike tour, dog parks, water access, etc.